

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 FMC-01 SSO-00 NSCE-00 USIE-00

INRE-00 CIAE-00 DODE-00 INR-07 NSAE-00 PA-01 PRS-01

SP-02 COME-00 DOTE-00 SAL-01 CG-00 DLOS-06 OES-06 L-03

STR-04 SS-15 NSC-05 H-02 /068 W
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O 242200Z AUG 76

FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC IMMEDIATE 2874

C O N F I D E N T I A L GUATEMALA 5956

EO 11652: GDS

TAGS: EWWT GT

SUBJECT: DECREE 41-71: FEDERAL MARITIME COMMISSION ORDERS

REF: STATE 207935

SUMMARY: REFTEL DISCUSSED BY PHONE WITH MINISTER OF
ECONOMY GUIROLA BATRES AUGUST 20 AND IN CONFERENCE HIS OFFICE
AUGUST 23. EMILIO PERALTA PORTILLO OF CORFINA AT-
TENDED CONFERENCE. GUATEMALA UNABLE TO ALTER DECREE 41-71
SO AS TO NOT ENFORCE THE LAW IN THE FOREIGN TRADE OF THE
US. BOTH MINECON AND PERALTA PORTILLO, AS WELL AS FONMIN
MOLINA ORANTES, SURPRISED AND DISTRESSED BY PROPOSED FMC
ACTION. END SUMMARY.

1. PROPOSED ACTION PARAS 1 AND 2 OF REFTEL GIVEN ORALLY
TO MINISTER OF ECONOMY ANTONIO GUIROLA BATRES AND
HEAD OF CORFINA (ALSO VICE PRESIDENT OF FLOMERCA) EMILIO
PERALTA PORTILLO.

2. CONCERNING PARA. 3 REFTEL, MINECON STATED THERE IS
MINIMAL POSSIBILITY OF CHANGE IN DECREE 41-71 (AND NO
CHANCE FOR CHANGE BY AUGUST 27).

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3. REFTEL, PARA. 4, REQUESTED EMBASSY TO DETERMINE IF

WAIVERS ARE BEING GRANTED TO 41-71. MINECON CLARIFIED THAT NO EXCEPTIONS TO DECREE 41-71 EXIST, AND THAT WAIVERS GRANTED FOR SPECIFIC CARGOES ARE WAIVERS UNDER THE PROCEDURES SET FORTH IN THE DECREE. HE STATED THAT ALL WAIVERS ARE GRANTED BY FLOMERCA AND THAT OTHER GUATEMALAN-FLAG LINES CANNOT BLOCK THESE WAIVERS. PERALTA CONCURRED. WAIVERS UNDER THE DECREE ARE BEING GRANTED BY FLOMERCA TO OTHER FOREIGN FLAG LINES AND CONFERENCES. PERALTA CITED A JAPANESE CARRIER AND A NORTH ATLANTIC CONFERENCE AS EXAMPLES OF ASSOCIATION AGREEMENTS AND STATED THAT FLOMERCA DOES NOT HAVE THE CAPACITY TO CARRY TRADE TO THOSE POINTS. AGAIN, THE MINECON EMPHASIZED THESE AGREEMENTS RESULTED IN PAYMENTS TO FLOMERCA UNDER DECREE 41-71 AND WERE NOT EXCEPTIONS TO THAT LAW.

4. MINECON STATED IN RESPONSE TO QUESTIONS PARA. 5, REFTEL, THAT THERE IS NO NEED FOR GOG REVIEW OF ASSOCIATION AGREEMENTS ENTERED INTO BY FLOMERCA (IN SPITE OF WORDING ARTICLES TWO AND THREE OF THE DELTA FLOMERCA "ASSOCIATION AGREEMENT"). HE STATED THERE IS NO PROCEDURE ESTABLISHED BY THE LAW BY WHICH EITHER THE CONGRESS OR THE EXECUTIVE BRANCH COULD EXPRESS APPROVAL OF SUCH AGREEMENTS. HE STATED, DESPITE THE POLITICALLY CONTROVERSIAL NATURE OF THE DELTA/FLOMERCA AGREEMENT, NO CONCURRENCE BY CONGRESS OR THE EXECUTIVE WOULD BE REQUIRED BEFORE THE AGREEMENT COULD ENTER INTO EFFECT IN GUTEMALA. THE EMBASSY NOTES THT THE CONTROL OF FLOMERCA RESIDES IN THE EXECUTIVE BRANCH WHICH TO-DATE HAS SUPPORTED THE DELTA/FLOMERCA AGREEMENT. DEPENDING UPON USG ACTION, FLOMERCA (THE GOG) CAN OPT OUT OF THE ARRANGEMENT. ARTICLE NINE READS: "THIS AGREEMENT AND ANY AMENDMENTS THERETO SHALL NOT BECOME EFFECTIVE IF ANY CONDITIONS OF APPROVAL ARE NOT ACCEPTABLE TOTHE PARTIES SIGNATORY HERETO.".

5. BOTH GUIROLA AND PERALTA SURPRISED AND DISTRESSED BY PROPOSED FMC ORDERS. THEY EMPHASIZED THE POLITICAL RUCKUS CREATED BY DELTA/FLOMERCA AGREEMENT EARLIER THS UEAR. IN ADDITION, THEY FELT THAT REOPENING OF CONTROVERSY AND CHARGES OF BIG POWER PRESSURE TACTICS WOULD

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CAUSE REACTION IN BOTH PRIVATE AND PUBLIC CIRCLES WHICH WOULD PROHIBIT OR GREATLY WEAKEN POSSIBILITY OF CONGRESSIONAL MODIFICATON OF DECREE 41-71. MINECON STATED THAT RELATIVE QUIET ON ISSUE DURING PAST WEEKS HAS BEEN BENEFICIAL TO DEVELOPMENT OF DELTA/FLOMERCA RELATIONSHIP. BOTH OFFICIALS HAD RECEIVED ASSUREANCES FROM DELTA THAT COMPLETION OF DELTA/FLOMERCA AGREEMENT WOULD RESOLVE ALL ISSUES AND THAT FUTE (AND EMBASSY BELIEVES NOT IM-

MINENT) ACTIONS CONCERNING DECREE 41-71 COULD BE CONDUCTED
INCALM ATMOSPHERE. BOTH OFFICIALS DEEPLY CONCERNED
ABOUT POLITICAL FUROR WHICH COULD POTENTIALLY DEVELOP
FROM FMC ORDERS.

6 ECON OFFICER PRESENTATION OF ACTION REQUESTED PARA. 3,
REFTEL, WAS DONE IN LIGHTEST POSSIBLE STYLE IN ORDER TO
AVOID HARGE AGAINST USG OF PRESSURE OR THREAT SINCE ABILITY
OF MINISTER TO ALTER DECREE 41-71 BY AUGUST 27 IS NIL.

7. COMMENT: MINECON AND PERALTA BOTH ATTENTIVE AND
RESPONSIVE, ALGHOUGH DISMAYED AT PROSECT OF HULLABALOO
WHICH COULD ENSUE FROM FMC HEARINGS. ONE OR THE OTHER
WILL CONTACT CAPT. CLARK OF DELTA AS SOON AS POSSIBLE
FOR A READING. FONMINISTER MOLINA ORANTES IN SEPARATE
CONVERSATION WITH CHARGE LIKEWISE EXPRESSED SURPRISE
AND DISMAY AT PROPOSED FMC ACTIN. EMBASSY STRONGLY
RECOMMENDS THAT FMC ORDERS BE WORDED IN LOW-KEY AND
NEUTRAL MANNER EMPHASIZING IF POSSIBLE THAT THEY CON-
STITUTE "NORMAL" OR "REQUIRED" PROCEDUURES OF THE FMC
IN ORDER TO DEFUSE LOCAL REACTION.
ANDREWS

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